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EXAMINER

TAYLOR, BARRY W

ART UNIT PAPER NUMBER

2643

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/086,205

Applicant(s)

BURG, FREDERICK MURRAY

Examiner

Barry W Taylor

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 4-6, 11, 13, 16-18, 21, 24-25, 27, 29, 32-33, are rejected under 35 U.S.C. 103(a) as being unpatentable over Manicone (5,748,718) found in Applicant's specification page 2 paragraph [05] in view of Lautenschlager et al (6,104,792 hereinafter Lautenschlager).

Regarding claims 1, 13, 21, and 29. Manicone teaches a small, inexpensive, telephone monitoring system capable of performing multiple functions including call and message notification, call monitoring, ring interruption, call forwarding and other functions for use with both a customer premise answering machine or a central office or network provided answering service (columns 1-12 and figures 1-17).

However, Applicant's contend that Manicone does not provide a network-based method of informing the customer of the best calling plan to make a telephone call (see Applicant's specification page 2, paragraph "[05]").

Lautenschlager also cites the Manicone patent (see U.S. References Cited) and improves on prior art by informing a subscriber in a communication network about the charge for a desired connection (Title, abstract, columns 1-12). Lautenschlager also discloses that before the desired connection has been established, the tariff data (T) are

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sent to the terminal (TA), which displays the data as tariff data to the subscriber, by means of a display unit (see last four lines of abstract, columns 1-2). Lautenschlager discloses that the tariff data depends on a number of parameters, for example on the distance between sender and receiver, on the date or the time of day, on the person of the sender or the receiver, or on the network status (col. 5 line 38 – col. 6 line 65). Lautenschlager further discloses that it is possible for the SCP to contain information regarding alternative connection paths wherein tariff data would be determined for each connection paths, and the least expensive connection path would then be chosen. However, the tariff data for all of these connection paths could also be sent to the respective subscriber, who would then interactively select one of the possible connection paths (col. 7 line 51 – col. 9 line 19).

Therefore, it would have been obvious to any one of ordinary skill in the art at the time of the invention to modify the teachings of Manicone to include tariff data as taught by Lautenschlager enabling the subscriber to select the least expensive connection prior to making a telephone call.

Regarding claims 4, 16, 24, and 32. Manicone does not explicitly show audibly announcing.

Lautenschlager further shows “voice messages” may be used for guidance of the user, or as user information (column 7).

Therefore, it would have been obvious to any one of ordinary skill in the art at the time of the invention to modify the teachings of Manicone to voice messages as taught by Lautenschlager enabling the subscriber to not only select the least expensive

connection prior to making a telephone call but guide the user or offer user information on special offers presently available.

Regarding claims 5, 17, 25, and 33. Manicone teaches using display (see figures 1-17 and columns 11-12).

Regarding claims 6, 18. Manicone does not disclose the minimum cost period.

Lautenschlager also cites the Manicone patent (see U.S. References Cited) and improves on prior art by informing a subscriber in a communication network about the charge for a desired connection (Title, abstract, columns 1-12). Lautenschlager also discloses that before the desired connection has been established, the tariff data (T) are sent to the terminal (TA), which displays the data as tariff data to the subscriber, by means of a display unit (see last four lines of abstract, columns 1-2). Lautenschlager discloses that the tariff data depends on a number of parameters, for example on the distance between sender and receiver, on the date or the time of day, on the person of the sender or the receiver, or on the network status (col. 5 line 38 – col. 6 line 65). Lautenschlager further discloses that it is possible for the SCP to contain information regarding alternative connection paths wherein tariff data would be determined for each connection paths, and the least expensive connection path would then be chosen. However, the tariff data for all of these connection paths could also be sent to the respective subscriber, who would then interactively select one of the possible connection paths (col. 7 line 51 – col. 9 line 19).

Therefore, it would have been obvious to any one of ordinary skill in the art at the time of the invention to modify the teachings of Manicone to include tariff data as taught

by Lautenschlager enabling the subscriber to select the least expensive connection prior to making a telephone call.

Regarding claims 11, 27. Manicone does not explicitly show occurring while the communication connection is being established (see Applicant's specification page 2, paragraph "[05]").

Lautenschlager further shows the task is fulfilled by the service control facility that is provided with a control unit, a tariffing unit, and communication facility for receiving call request from terminals connected to the communication network (see all). In other words, Lautenschlager also teaches querying SCP during call connection.

Therefore, it would have been obvious to any one of ordinary skill in the art at the time of the invention to modify the teachings of Manicone to query SCP as taught by Lautenschlager enabling the subscriber to not only select the least expensive connection prior to making a telephone call.

2. Claim 2-3, 7, 10, 14-15, 19, 22-23, 26, 30-31 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manicone (5,748,718) found in Applicant's specification page 2 paragraph [05] in view of Lautenschlager et al (6,104,792 hereinafter Lautenschlager) further in view of Dahm et al (6,301,471 hereinafter Dahm).

Regarding claims 2, 14, 22, and 30. Manicone in view of Lautenschlager does not explicitly show prompting the calling party for transfer to a customer service center.

Dahm teaches a method and system that allows the subscribers to review an offer for a service plan better meeting the subscriber's needs (abstract) or to contact a

customer service representative by pressing a predetermined key (col. 11 lines 2-19, col. 13 lines 1-10, col. 14 lines 29-67).

It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the invention as taught by Manicone in view of Lautenschlager to prompt the subscriber as taught by Dahm enabling the subscriber to contact a customer service representative by pressing a predetermined key as taught by Dahm.

Regarding claims 3, 15, 23, and 31. Manicone in view of Lautenschlager does not explicitly show verifying subscriber.

However, Lautenschlager invention uses the number "S" which precedes the called number and identifies the service provided by the SCP which would inherently verify paying subscribers using the service provided by Lautenschlager.

Dahm teaches a method and system that allows the subscribers to review an offer for a service plan better meeting the subscriber's needs (abstract) or to contact a customer service representative by pressing a predetermined key (col. 11 lines 2-19, col. 13 lines 1-10, col. 14 lines 29-67). Dahm further discloses "firewall" (columns 1-4) and "on-line" (col. 11 lines 2-19, col. 13 lines 1-10, col. 14 lines 29-67) access that provides options to subscribers.

It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the invention as taught by Manicone in view of Lautenschlager to prompt the subscriber as taught by Dahm enabling the subscriber to contact a customer service representative by pressing a predetermined key as taught by Dahm.

Regarding claims 7, 19, 26, and 34. Manicone in view of Lautenschlager does not explicitly show web page.

Dahm teaches a method and system that allows the subscribers to review an offer for a service plan better meeting the subscriber's needs (abstract) or to contact a customer service representative by pressing a predetermined key (col. 11 lines 2-19, col. 13 lines 1-10, col. 14 lines 29-67). Dahm further discloses "firewall" (columns 1-4) and "on-line" (col. 11 lines 2-19, col. 13 lines 1-10, col. 14 lines 29-67) access that provides options to subscribers.

It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the invention as taught by Manicone in view of Lautenschlager to prompt the subscriber as taught by Dahm enabling the subscriber to contact a customer service representative by pressing a predetermined key as taught by Dahm.

Regarding claim 10. Manicone in view of Lautenschlager does not explicitly show providing minimum cost periods after the calling party has made a plurality of telephone calls.

Dahm teaches a method and system that allows the subscribers to review an offer for a service plan better meeting the subscriber's needs (abstract) or to contact a customer service representative by pressing a predetermined key (col. 11 lines 2-19, col. 13 lines 1-10, col. 14 lines 29-67). Dahm further discloses "firewall" (columns 1-4) and "on-line" (col. 11 lines 2-19, col. 13 lines 1-10, col. 14 lines 29-67) access that provides options to subscribers. Dahm further discloses offering customers who make a lot of calls a loyalty offer (columns 14-18).



It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the invention as taught by Manicone in view of Lautenschlager to prompt the subscriber as taught by Dahm enabling the subscriber to review loyalty offer by pressing a predetermined key as taught by Dahm.

3. Claims 8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manicone (5,748,718) found in Applicant's specification page 2 paragraph [05] in view of Lautenschlager et al (6,104,792 hereinafter Lautenschlager) further in view of Byers (5,579,417).

Regarding claims 8 and 20. Manicone in view of Lautenschlager is silent with respect to deactivating request.

Byers teach a telecommunication network including a plurality of local exchanges or switches having data base containing rate information (abstract, columns 1-6). Each data base contains rate information includes the service providers' basic rate structures, time of day discounts, group calling plans, usage discounts and the like (abstract, columns 1-6) whereby the switching system automatically routes the call through a selected service provider. Byers also disclose that subscribers are given the option to disable the service for any particular call even though the customer subscribes to the service. By entering a numeric code before dialing the called number, the customer may disable the service and is allowed to choose a desired service provider regardless of its relative cost (column 4).

It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the invention as taught by Manicone in view of Lautenschlager to use a numeric code before dialing the called number as taught by Byers allowing the subscriber to disable the service and select a desired service provider regardless of its relative cost.

4. Claims 9, 35, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manicone (5,748,718) found in Applicant's specification page 2 paragraph [05] in view of Lautenschlager et al (6,104,792 hereinafter Lautenschlager) further in view of Mijares, Jr. et al (6,330,311 hereinafter Mijares).

Regarding claim 9. Manicone in view of Lautenschlager is silent with respect to deactivating after a predetermined time.

Mijares teaches low cost routing system for telecommunications unit based upon the current day, date, time of day and destination (abstract, columns 1-26). Mijares discloses that periodically and preferably during extreme off peak hours, the processor, based upon the output of an update timer, establishes a telecommunications link with a remotely disposed computer that updates rate data for a specific destination or geographic region, or terminate specific low cost rates for certain days, dates, of time of day (columns 1-2, columns 11-12).

It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the invention as taught by Manicone in view of Lautenschlager to use update timer as taught by Mijares so that if carriers change the rate data for a

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specific destination or geographic region, or terminate specific low cost rates for certain days, dates, or time of day the information will accurately reflect current carrier rate data.

Regarding claim 35. Manicone in view of Lautenschlager is silent with respect using quality of service for determining a cost value.

Mijares teaches low cost routing system for telecommunications unit based upon the current day, date, time of day and destination (abstract, columns 1-26). Mijares discloses that periodically and preferably during extreme off peak hours, the processor, based upon the output of an update timer, establishes a telecommunications link with a remotely disposed computer that updates rate data for a specific destination or geographic region, or terminate specific low cost rates for certain days, dates, of time of day (columns 1-2, columns 11-12). Mijares further discloses selecting least cost call carrier based on quality of service (col. 5 line 55 – col. 6 line 60).

It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the invention as taught by Manicone in view of Lautenschlager to use quality of service as taught by Mijares so that business person operating at home office may utilize “high quality” carrier during business hours and to save money during off peak or non-business hours by selecting the least expensive low cost carrier as taught by Mijares.

Regarding claim 37. Manicone does not explicitly show audibly announcing.

Lautenschlager further shows “voice messages” may be used for guidance of the user, or as user information (column 7).

Therefore, it would have been obvious to any one of ordinary skill in the art at the time of the invention to modify the teachings of Manicone to voice messages as taught by Lautenschlager enabling the subscriber to not only select the least expensive connection prior to making a telephone call but guide the user or offer user information on special offers presently available.

Regarding claim 38. Manicone teaches using display (see figures 1-17 and columns 11-12).

5. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Manicone (5,748,718) found in Applicant's specification page 2 paragraph [05] in view of Lautenschlager et al (6,104,792 hereinafter Lautenschlager) further in view of Mijares, Jr. et al (6,330,311 hereinafter Mijares) and Dahm et al (6,301,471 hereinafter Dahm).

Regarding claim 36. Manicone in view of Lautenschlager further in view of Mijares does not explicitly show verifying subscriber.

However, Lautenschlager invention uses the number "S" which precedes the called number and identifies the service provided by the SCP which would inherently verify paying subscribers using the service provided by Lautenschlager and Mijares indeed discloses "Internet" access which inherently and/or obviously requires verifying subscriber.

Dahm teaches a method and system that allows the subscribers to review an offer for a service plan better meeting the subscriber's needs (abstract) or to contact a

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customer service representative by pressing a predetermined key (col. 11 lines 2-19, col. 13 lines 1-10, col. 14 lines 29-67). Dahm further discloses "firewall" (columns 1-4) and "on-line" (col. 11 lines 2-19, col. 13 lines 1-10, col. 14 lines 29-67) access that provides options to subscribers.

It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the invention as taught by Manicone in view of Lautenschlager and Mijares to prompt the subscriber as taught by Dahm enabling the subscriber to contact a customer service representative by pressing a predetermined key as taught by Dahm.

6. Claims 39-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manicone (5,748,718) found in Applicant's specification page 2 paragraph [05] in view of Lautenschlager et al (6,104,792 hereinafter Lautenschlager) further in view of Mijares, Jr. et al (6,330,311 hereinafter Mijares) and McFarland et al (5,408,526 hereinafter McFarland).

Regarding claims 39-47. Claims 39-47 do not contain any additional features that would lead to a novel subject matter. The Examiner notes that the method of processing a video telephone call as recited in claims 39-42 and the method of notifying while making a video telephone call as recited in claims 43-47, is an inherent measure to a person with minimum skill in the art and according to Applicant's specification page 14 paragraphs "[33] – [34]" the novel subject matter is not "video" but instead may be applied to other telecommunication systems and networks (see Applicant's specification

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page 14 paragraph "[33]") and video telephone systems are also contemplated (see Applicant's specification page 14 paragraph "[34]").

With respect to claims 39-47. Manicone in view of Lautenschlager is silent with respect using video telephone.

Mijares teaches low cost routing system for telecommunications unit based upon the current day, date, time of day and destination (abstract, columns 1-26). Mijares discloses that periodically and preferably during extreme off peak hours, the processor, based upon the output of an update timer, establishes a telecommunications link with a remotely disposed computer that updates rate data for a specific destination or geographic region, or terminate specific low cost rates for certain days, dates, of time of day (columns 1-2, columns 11-12). Mijares further discloses selecting least cost call carrier based on quality of service (col. 5 line 55 – col. 6 line 60), which is very important when making calls over the Internet (columns 5-26). The Examiner also notes that video and multimedia phones are very dependent on bandwidth requirements and it would take very little effort for one of minimum skill in the art to include video and multimedia phones to the Mijares invention especially when Mijares cites U.S. Patent No. 5,408,526 McFarland et al (see McFarland--abstract lines 5-6, col. 1 line 66 and column 2 wherein bandwidth and quality of service are taken into consideration).

Therefore, It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the invention as taught by Manicone in view of Lautenschlager to use quality of service as taught by Mijares so that business person

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operating at home office may utilize "high quality" carrier during business hours to make video conference calls as taught by McFarland cited on the Mijares patent.

7. Claims 12, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manicone (5,748,718) found in Applicant's specification page 2 paragraph [05] in view of Lautenschlager et al (6,104,792 hereinafter Lautenschlager) further in view of Penzias et al (5,473,630 hereinafter Penzias).

Regarding claims 12, 28. Manicone in view of Lautenschlager is silent with respect to prompting the caller to abandon telephone call.

Penzias teaches telecommunication rate data wherein carriers make their rate information for long-distance services available in a database (abstract, columns 1-10). Penzias discloses prompting that an announcement is presented to the caller informing him/her when rate changes and the benefit of waiting (columns 5-6). Penzias discloses the caller is prompted to abandon call (col. 6 line 44 – col. 7 line 8).


It would have been obvious for any one of ordinary skill in the art at the time of the invention to modify the invention as taught by Manicone in view of Lautenschlager to use prompt the user to abandon call as taught by Penzias enabling the caller wait until it is time to make a cheaper telephone call as taught by Penzias.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barry W. Taylor whose telephone number is (703) 305-4811. The examiner can normally be reached on Monday-Friday from 6:30am to 4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 customer service Office whose telephone number is (703) 306-0377.

  
CURTIS KUNTZ  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600